

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JAMES D. SMITH,

Plaintiff,

v.

BRIAN MCGARVIE, *et al.*,

Defendants.

Case No. C05-5156RJB

ORDER ON PLAINTIFF'S  
DISCOVERY REQUESTS

The court, having reviewed plaintiff's request to take non-stenographic depositions and request for an extension of time (30 days) to conduct discovery (Doc. 52), does hereby find and ORDER:

(1) Rule 26(b)(2) states, in part:

The frequency or extent of use of the discovery methods otherwise permitted under these rules and by any local rule shall be limited by the court if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (iii) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.

Fed. Rule of Civ. P. CR 26(b)(2).

Plaintiff's status as a prisoner creates impediments to certain methods of discovery. In light of the substantial legal nature of plaintiff's allegations of constitutional violations, and taking into consideration the safety risks created when one inmate seeks to orally depose a witness, this court **DENIES** plaintiff's motion to take non-stenographic oral depositions.

1 In light of this situation, plaintiff should explore other means to prepare for trial. Federal Rule of  
2 Civil Procedure 29 provides alternatives to general discovery practice and procedure, and the court  
3 encourages all parties to mutually work out discovery complications. Both parties should inform the court  
4 of stipulations made pursuant to Federal Rule of Civil Procedure 29.

5 (2) Plaintiff's request to extend the discover deadline thirty (30) days is GRANTED. All discovery  
6 must be completed by not later than December 12, 2005.

7 (3) The Clerk is directed to send copies of this Order to plaintiff and if they have appeared, to  
8 counsel for defendant(s).

9 DATED this 31<sup>st</sup> day of October, 2005.

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11 /s/ J. Kelley Arnold  
12 J. Kelley Arnold  
13 United States Magistrate Judge  
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